

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

American Equipment Company, Inc.,)	
)	C.A. No. 6:06-3568-HMH
Plaintiff,)	
)	OPINION & ORDER
vs.)	
)	
A&L Underground, Inc.,)	
)	
Defendant.)	

This matter is before the court on A&L Underground, Inc.’s (“A&L Underground”) motion to reconsider the court’s order denying its motion to stay the case pending appeal. It is unclear under which Rule of the Federal Rules of Civil Procedure A&L Underground is moving for reconsideration. Therefore, the court will construe A&L Underground’s motion as pursuant to Rule 54(b).

The “district court retains the power to reconsider and modify its interlocutory judgments . . . at any time prior to final judgment when such is warranted.” American Canoe Ass’n, Inc. v. Murphy Farms, Inc., 326 F.3d 505, 514-15 (4th Cir. 2003). Further, “[m]otions for reconsideration of interlocutory orders are not subject to the strict standards applicable to motions for reconsideration of a final judgment.” Id. at 514.

On December 22, 2006, A&L Underground filed a motion to dismiss pursuant to Rules 12(b)(1), 12(b)(3), 12(b)(4), 12(b)(5), and 12(b)(6) of the Federal Rules of Civil Procedure. A&L Underground premised its motion on the grounds that the parties had entered into a valid contract for arbitration of the dispute at issue in the instant case. On February 2, 2007, the court denied A&L Underground’s motion. A&L Underground appealed and moved to stay the case pending appeal on February 23, 2007. On April 3, 2007, the court denied A&L Underground’s

motion to stay the case. A&L Underground filed the instant motion for reconsideration on April 11, 2007.

The court denied A&L Underground's motion to dismiss due to unresolved factual disputes regarding the underlying contract between the parties. By denying the motion, the court provided the parties additional time to complete further discovery on the issue of whether the parties entered into a binding contract for arbitration. The order was not a final ruling on the matter of arbitration, and staying the case would not allow further discovery on the matter. Under these circumstances, the court denies A&L Underground's motion for reconsideration.

It is therefore

ORDERED that the Defendant's motion for reconsideration, docket number 33, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
United States District Judge

Greenville, South Carolina
May 17, 2007